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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**AMENDED STANDARD
DISCOVERY PLAN**

Date of Hearing: November 16, 2007
Time of Hearing: 9:30 a.m.

Affects:

- ☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

1 The USACM Liquidating Trust (the "USACM Trust") and Los Valles Land &
2 Golf, LLC ("Los Valles") request that the Court enter a discovery plan and scheduling
3 order in this matter.

4 **1. Discovery Plan:**

5 _____ Request for waiver of requirement to prepare and file a formal
6 discovery plan.

7 The parties certify that all discovery can be completed informally, without
8 the need of court intervention and in conformance of the Standard Discovery Plan, and
9 that the matter will be ready for trial within 120 days, or

10 X A discovery plan is needed or useful in this case. Check one:

11 _____ The parties agree to the standard discovery plan.
12 The first defendant answered or otherwise appeared on January 24, 2007. Discovery shall
13 be completed within _____ days, measured from the date the first defendant answered or
14 otherwise appeared. Discovery will close by _____.

15 X The parties jointly propose to the court the
16 attached discovery plan and scheduling order included below under Paragraph 8. (Use
17 Official Form 35 to the Federal Rules of Civil Procedure.)

18 _____ The parties cannot agree on a discovery plan and
19 scheduling order. The attached sets forth the parties' disagreements and reasons for each
20 party's position. (Use Official Form 35 of the Federal Rules of Civil Procedure.)
21 Complete parts 2 - 6.

22 **2. Nature of The Case:**

23 Los Valles has asserted a claim in excess of \$2 million against USA Commercial
24 Mortgage Company ("USACM") arising out of a series of agreements relating to USACM
25 arranging for a \$11,700,000 loan to Los Valles to finance a residential development
26 located in Los Angeles County, California. The dispute centers upon USACM's

1 collection, as well as its attempt to collect, certain charges from Los Valles, as well as
2 USACM's conduct in connection with an October 2004 payoff demand from Los Valles.

3 Los Valles filed its proof of claim no. 1366 on November 13, 2006. The USACM
4 Trust filed an Objection [DE 3076] to the Los Valles claim on March 13, 2007 and an
5 Amended Objection [DE 4820] on September 20, 2007. The Amended Objection disputes
6 each theory asserted in the Los Valles Claim on factual and/or legal grounds and disputes
7 the Los Valles claimed damages. The Amended Objection also asserts several affirmative
8 defenses.

9 On October 15, 2007, Los Valles filed a response [DE 5017] to USACM's
10 Amended Objection.

11 **3. Jury Trials:**

12 A demand for a jury trial has not been made.

13 **4. Additional Pleadings:**

14 Are there any counterclaims, cross claims or amendments to the pleadings expected
15 to be filed?

16 The USACM Trust will soon file an Amended Objection that will assert an
17 affirmative demand for relief against Los Valles. More specifically, Los Valles will seek a
18 declaratory judgment to establish that Los Valles is obligated to make the payments due
19 under the October 6, 2006 Letter Agreement. Because the relief sought by USACM will
20 be of the kind specified in Bankruptcy Rule 7001(1) and (9), this matter will become an
21 adversary proceeding pursuant to Bankruptcy Rule 3007. Los Valles does not oppose the
22 amendment and will not object to the matter being decided by this Court.

1 **5. Settlement Conference: Check one:**

2 _____ A settlement conference is requested.

3 X Settlement cannot be evaluated prior to additional discovery. The
4 parties may later request a settlement conference.

5 **6. Trial:**

6 The parties believe that this case will be ready for a bench trial by March 17, 2008,
7 and that the trial will last three days.

8 **7. All parties consent to this court entering final judgment.**

9 **8. JOINT REPORT OF PARTIES' PLANNING MEETING**

10 **A. Pursuant to Fed. R. Civ. P. 26(f), a Telephonic Meeting Was Held on**
11 **November 13, 2007 and Was Attended by:**

12 Bruce Jacobs of Akin Gump Strauss Hauer & Feld, LLP for the claimant, Los
13 Valles Land & Golf, LLC plaintiff

14 John Hinderaker of Lewis and Roca, LLP for the debtor, the USACM Liquidating
15 Trust.

16 **B. Pre-discovery Disclosures.**

17 The parties will exchange by **November 29, 2007** the information required by Fed.
18 R. Civ. P. 26(a)(1).

19 **C. Discovery Plan.**

20 The parties jointly propose to the Court the following discovery plan:

21 Discovery will be needed on the following subjects: The factual basis for each of
22 Los Valles' five claims against USACM; the factual basis for Los Valles' alleged
23 damages; the facts and negotiations between USACM and Los Valles related to the
24 parties' various agreements; and the factual basis for any claim that the USACM Trust
25 may bring against Los Valles.

26 All discovery commenced in time to be completed by March 14, 2008.

Maximum of 25 interrogatories by each party to any other party. Responses due 20 days after service.

Maximum of 50 requests for admission by each party to any other party. Responses due 20 days after service.

Responses to requests for production of documents, electronically stored information and things will be due 20 days after service.

Maximum of 5 depositions by Los Valles and 5 by the USACM Trust.

Each deposition limited to maximum of 4 hours unless extended by agreement of parties.

Reports from retained experts under Rule 26(a)(2) due:

from Los Valles by January 18, 2008.

from the USACM Trust by February 8, 2008.

Supplementations under Rule 26(e) due February 22, 2008.

The parties agree that the disclosure or discovery of electronically stored information should be handled as follows:

Disclosure and discovery of electronically stored information: The parties are to preserve all electronically stored information that is relevant to this lawsuit or reasonably likely to be subject to discovery. If and when a party requests electronically stored information, the parties shall confer regarding the manner in which the producing party will disclose such information to the requesting party. If, after conferring, the parties cannot agree on the manner in which to disclose such information, the requesting party shall file a discovery motion.

D. Other Items.

The parties request a pretrial conference in March 2008.

The parties should be allowed until December 15, 2007 to seek leave to join additional parties and to amend the pleadings other than as set forth in Section 4, above.

All potentially dispositive motions should be filed by February 29, 2008.

Settlement cannot be evaluated prior to December 1, 2007.

The parties shall file a joint witness and exhibit list no later than February 22, 2008.

Parties should have 7 days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).

The case should be ready for a bench trial by March 17, 2008 and at this time trial is expected to take approximately 3 days.

Dated: November 15, 2007

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